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2009

# BILLET D'ÉTAT

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WEDNESDAY, 28th JANUARY, 2009

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STATES ASSEMBLY AND CONSTITUTION COMMITTEE –  
STATES MEMBERS' CONDUCT PANEL FINDINGS OF  
THE INVESTIGATION PANEL INTO COMPLAINTS  
AGAINST DEPUTY BERNARD MARCEL FLOUQUET

# ***B I L L E T D ' É T A T***

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**TO THE MEMBERS OF THE STATES OF**

**THE ISLAND OF GUERNSEY**

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I have the honour to inform you that a Meeting of the States of Deliberation will be held at **THE ROYAL COURT HOUSE**, on **WEDNESDAY**, the **28<sup>th</sup> JANUARY, 2009**, immediately before the meeting already convened for that day, to consider the item contained in this Billet d'État which has been submitted for debate.

**G. R. ROWLAND**  
Bailiff and Presiding Officer

The Royal Court House  
Guernsey  
7 January 2009

## **STATES ASSEMBLY AND CONSTITUTION COMMITTEE**

### **STATES MEMBERS' CONDUCT PANEL FINDINGS OF THE INVESTIGATION PANEL INTO COMPLAINTS AGAINST DEPUTY BERNARD MARCEL FLOUQUET**

The Presiding Officer  
The States of Guernsey  
Royal Court House  
St Peter Port

23<sup>rd</sup> December 2008

Dear Sir

#### **EXECUTIVE SUMMARY**

This report lays before the States the report of the Investigation Panel into complaints against Deputy Flouquet and recommends that he be formally reprimanded for uttering offending remarks on the 20<sup>th</sup> November 2008.

#### **REPORT**

1. Rule 33 of the Code of Conduct for Members of the States of Deliberation provides that where the Investigation Panel finds that a complaint has been substantiated and it is of the opinion that the Member should be formally reprimanded, suspended or expelled, it shall report its findings to the States Assembly and Constitution Committee which, in turn, shall report to the States on the matter, with appropriate recommendations.
2. Appended to this report is a letter dated 16<sup>th</sup> December 2008 from the Chairman of the States Members' Conduct Panel together with the findings of the Investigation Panel into complaints against Deputy Flouquet which findings are self-explanatory.
3. The Committee is of the view that the States set up the States Members' Conduct Panel to consider complaints and that the Committee should only deviate from the Panel's recommendations in exceptional circumstances. There are no such exceptional circumstances to justify doing so on this occasion. The Committee notes the Panel's observation that the issue of removal from office is a matter for the States of Deliberation to determine, if they are so minded.

**Recommendation**

4. The States Assembly and Constitution Committee recommends the States to decide that Deputy Bernard Marcel Flouquet be formally reprimanded pursuant to the Code of Conduct for Members of the States of Deliberation for having uttered offending remarks immediately prior to a formal presentation and press conference held at the States Airport on the 20<sup>th</sup> November 2008.

Yours faithfully

Ivan Rihoy  
Chairman

The Bailiff's Chambers  
Royal Court House  
St Peter Port  
GUERNSEY  
GY1 2PB

Deputy I F Rihoy  
Chairman  
States Assembly and Constitution Committee  
Sir Charles Frossard House  
La Charroterie  
St Peter Port  
Guernsey  
GY1 1FH

16 December 2008

Dear Sir

**CODE OF CONDUCT FOR MEMBERS OF THE STATES OF DELIBERATION**  
**COMPLAINTS AGAINST DEPUTY B M FLOUQUET**

The States Members' Conduct Panel received five complaints from members of the public in respect of the remarks made by Deputy Flouquet at a press conference on 20 November 2008.

In accordance with Rule 33 of the Code of Conduct for Members of the States of Deliberation, the Investigation Panel encloses the report of its findings. As will be seen, the Investigation Panel unanimously concluded that the complaints that he had breached Rule 8 of the Code of Conduct were substantiated, and that the Panel thought that a reprimand was the appropriate sanction.

We propose forwarding a copy of this report to Deputy Flouquet as a matter of courtesy and to inform the complainants of the fact of the Panel's finding that the complaints were substantiated and that the matter has been referred to your Committee. Once those persons have been so informed we will issue a brief media release to similar effect.

Yours faithfully

A C K Day CBE  
Chairman, States Members' Conduct Panel

**STATES MEMBERS CONDUCT PANEL**

**Complaints against Deputy B M Flouquet**

**Findings of the Investigation Panel**

1. On the afternoon of Thursday 20<sup>th</sup> November, a formal Presentation and Press Conference was held at the States Airport in respect of the Airport Runway Refurbishment Project. Present were the Deputy Chief Minister, Deputy Flouquet, in his capacity as Minister of the Public Services Department (which has responsibility for the Project), the Minister for the Commerce and Employment Department, three Senior Civil Servants, the Consulting Engineer and six members of the media.
2. Prior to the start of the formal presentation, Deputy Flouquet saw fit to repeat what he described as a joke which he had recently heard. Both the telling of that joke, and its contents, were extensively reported on television, the radio and in the press, and have since been referred to repeatedly.
3. Five members of the public, not States Members, have made separate written complaints to the States Members' Conduct Panel about the conduct of the Deputy on that occasion and the contents of his joke. Various, and in summary, they consider that the Deputy's remarks were racist; that the Deputy has breached the provisions of the Code of Conduct for States Members, in particular in relation to accountability and leadership and under rules 8 and 9; that he is unfit to serve any public office, has disgraced his office and Guernsey and betrayed the trust invested in him; that he should resign as a Minister and as a Deputy.
4. The Chairman was satisfied that there was a prima facie evidence to support the complaints, which were received on the 26<sup>th</sup> and 28<sup>th</sup> November and the 3<sup>rd</sup> December. In the normal course – a complaint by one Deputy about another - an Investigation Panel, if convened, would comprise the Chairman and two other Members of the Conduct Panel, one nominated by the Member under

investigation and one by the Chairman. On this occasion, in view of the number of complaints from the public, and with the consent of Deputy Flouquet, an Investigation Panel (“the Panel”) of six was convened, namely the Chairman, Deputy Flouquet’s nominee, Advocate Tostevin, Mrs J Beugeard, Mr A J Creasey, Mrs H Norman and the Very Reverend M. Trickey. Unfortunately, Mr Creasey fell sick and was unable to participate in the Panel’s later deliberations.

5. Deputy Flouquet was provided with copies of all the complaints and responded promptly and comprehensively. The Panel was able to view a brief DVD of the programme transmitted by the BBC in respect of the joke; and Deputy Flouquet was invited to, and did, attend the first meeting of the Panel to reiterate his view of the incident and to answer questions. Some letters of support for Deputy Flouquet were subsequently received from States Members, and one from a member of the public. The Panel has also been made aware officially of the concerns expressed by the Guernsey Branch of NASUWT, a teacher’s association. All these have been considered by the Panel.
6. We turn to the subject matter of the complaints.
7. As the media were assembling on the afternoon in question, Deputy Flouquet started to address them in the following, or very similar, terms:-

*“Before we start...a little joke was said that apparently the British Government had agreed with President Bush in America, and we all know that he is going to be coming out of that position and Barack Obama is going to be taking over. And the agreement was that the Americans were looking for permission to be able to use the Sovereign’s face on all their future stamps and in return to show their appreciation, they would allow Britain to put the golliwog back on to the jam jar”.*

and then asked that the formal presentation commence.

8. Later, that afternoon, the episode started to hit the headlines and Deputy Flouquet issued an apology, which was followed by another apology to States Members and the public of Guernsey in the States Meeting the following week (3<sup>rd</sup> December).
9. Deputy Flouquet contends that, at the time, he did not recognise the racial and racist undertones of the joke, and that had he done so, he would certainly not have repeated it. It was not a previously planned part of his presentation. He had made no comment upon the content of his joke, nor had he made any connection to President Elect Obama. Further, he believed he was telling the joke in a private gathering of twelve people and that he had no idea that the cameras and tape recorders were running.
10. The first question the Panel had to address was whether Deputy Flouquet breached the Code of Conduct for Members of the States of Deliberation. Rule 8 is considered to be the most directly relevant:-

*“Members shall at all times conduct themselves in a manner which will tend to maintain and strengthen the public’s trust and confidence in the integrity of the States of Deliberation and never undertake any action which would bring the States, or its members generally, into disrepute”.*

11. Deputy Flouquet contends, as already stated, that the joke he was telling was to a private gathering as the Presentation had not yet formally started. He had no idea that the cameras and tape recordings were running, nor were microphones visible. We consider that contention to be wrong and irrelevant. The Press were not there by accident. They had been officially invited to hear what the Minister and others had to say about the refurbishment of the runway. No doubt they pricked up their ears and moistened their pencils as soon as the Deputy started to speak, even if some of the media had not yet finally settled. He is a long standing politician with considerable experience of handling the media.



12. We find it difficult to believe or beyond belief that Deputy Flouquet did not recognise the racial undertones of the joke, as he had used the words “Barack Obama” and “golliwog” almost in the same breath. The fact that he did not make any specific connection to President Elect Obama is, again, totally irrelevant - the necessary inference is blindingly obvious. Whilst we accept that Deputy Flouquet’s remarks were not racist, in the sense of being used to advance a particular philosophy or political creed, they obviously referred to colour and therefore race.
13. It is neither the role nor the intent of the Panel to advance the cause of political correctness, but the Deputy’s remarks were thoughtlessly inappropriate and were considered to be gratuitously offensive by some members of the public, without being in the least bit funny. As one complainant aptly put it, his remarks might be understood as giving assent to racist attitudes. It is not what a speaker may have in mind when he commits himself to words, rather, it is what the audience hears. Those who know Deputy Flouquet will say, no doubt rightly, that he is not a racist in any way. But by far the greater part of any eventual audience would not know the Deputy. In our view his remarks were thoughtless in the telling; equally he appears to have given no thought to the fact that he is a public officer and public servant of a very senior status. Which brings us to our main concern. Whatever the precise circumstances in which the words may have been uttered, what matters is that they were uttered by the Deputy Chief Minister, and the public were going to be informed of them.
14. We unanimously conclude that on this occasion, Deputy Flouquet failed to conduct himself in a manner which would tend to maintain and strengthen the public’s trust and confidence in the integrity of the States of Deliberation (Rule 8 of the Code of Conduct for States’ Members).
15. In view of that decision, the Panel next has to consider what sanction is appropriate, in accordance with Rules 32 and 33. On the one hand, if we consider that the breach of conduct was of a minor nature then the matter can be

disposed of by way of a caution, and the decision reported to the Presiding Officer and to Her Majesty's Greffier. On the other hand, if we consider the breach of conduct was more than of a minor nature, and that the Member should be formally reprimanded, suspended or expelled, then we report our findings to the States Assembly and Constitution Committee which, in turn, reports to the States on the matter with appropriate recommendations.

16. The Panel acknowledges that, on a generous interpretation, the impact of Deputy Flouquet's words can be viewed as unwitting, though thoughtless in the extreme as to the consequences. Moreover, the Panel recognizes that the continuous coverage in the media could be thought to be disproportionate, that Deputy Flouquet has made full apology, and that many who know him speak highly of his abilities as a Minister. That last issue is not one for us to judge. Whether the Deputy should be relieved of his duties as Deputy Chief Minister or Minister for the Public Services Department is one purely for the States of Deliberation as a whole to consider, if so minded. We are naturally aware of the divisions of opinion amongst the public and States Members themselves as to the culpability of Deputy Flouquet and the consequences for him, but we have resisted, as best we can, any pressures in that regard.
17. Whilst Deputy Flouquet may have made the Presentation as Minister for the Public Services Department, we reiterate our central concern that it was also as Deputy Chief Minister that he uttered the offending remarks. We do not think the breach of conduct was of such a minor nature as to warrant a caution. Rather a formal reprimand would be appropriate, but certainly not suspension or expulsion from the States of Deliberation.
18. Accordingly, we report to the States Assembly and Constitution Committee our findings that the complaints that Deputy Flouquet has broken Rule 8 of the Code of Conduct have been substantiated, and our belief that a formal reprimand would be appropriate.

*(signed and dated 16 December 2008)*

The States are asked to decide:-

Whether, after consideration of the Report, dated 23<sup>rd</sup> December, 2008, of the States Assembly and Constitution Committee, they are of the opinion:-

That Deputy Bernard Marcel Flouquet be formally reprimanded pursuant to the Code of Conduct for Members of the States of Deliberation for having uttered offending remarks immediately prior to a formal presentation and press conference held at the States Airport on the 20<sup>th</sup> November 2008.

**IN THE STATES OF THE ISLAND OF GUERNSEY ON  
THE 28<sup>th</sup> DAY OF JANUARY, 2009**

**The States resolved as follows concerning Billet d'État No III  
dated 7<sup>th</sup> January 2009**

**STATES ASSEMBLY AND CONSTITUTION COMMITTEE**

**STATES MEMBERS' CONDUCT PANEL  
FINDINGS OF THE INVESTIGATION PANEL INTO COMPLAINTS AGAINST  
DEPUTY BERNARD MARCEL FLOUQUET**

After consideration of the Report, dated 23<sup>rd</sup> December, 2008, of the States Assembly and Constitution Committee: -

That Deputy Bernard Marcel Flouquet be formally reprimanded pursuant to the Code of Conduct for Members of the States of Deliberation for having uttered offending remarks immediately prior to a formal presentation and press conference held at the States Airport on the 20<sup>th</sup> November 2008.

**K H TOUGH  
HER MAJESTY'S GREFFIER**